HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3536 OF 1997.

Rabhavendra K. Jahagirdar
since deceased by his heirs:-

Smt. Jayashri R. Jahagirdar
& Others. ..Petitioners.

Versus.

The State of Maharashtra & Anr. ..Respondents.

Mr. P. K. Hushing for the petitioner.

Mr. V. S. Gokhale A.G.P. for the State.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATE: FEBRUARY 27, 2007.

P.C.

1. Heard learned counsel for both sides. Order dated 19th April 1997 passed by the Secretary to the Government of Maharashtra under sub-clause -I of clause (a) of Sub-rule (4) of rule 10 of Maharashtra Civil Services (Pension) Rules, 1982 is challenged. By the said order the petitioner was retired from the judicial services on completion of 50 years of his age. The said order is challenged. However, during the pendency of this petition, the petitioner expired. The petitioner Nos. 1(a) to

1(d) are the heirs and legal representatives of the original petitioner.

2. Since the petitioner was compulsorily retired from the service in view of that order the respondent had fixed the provisional pension of the original petitioner, and after the death of the original petitioner the petitioner no. 1(a) being the wife of the deceased was entitled to family pension. Therefore, the provisional family pension has been fixed.

. At this stage Mr. P.K.Husing has filed the memo. He submits that the grievance of petitioner will stand redressed if the retiremental pension is finalised including the benefits of the Shetty Commission coupled with other retiremental benefits, and similarly if the Family pension of petitioner no.1(a) is finalised the petitioner is desirous to withdraw the petition.

3. Learned counsel Mr. Gokhale on instructions submits that the original petitioner’s pension and other pensionary benefits would be finalised including the benefits of the Shetty Pay Commission. He further submits that provisional pension which has been given to the

petitioner no.1(a) will be finalised, and if there are any arrears it will be paid to the petitioner no. 1(a). In view of the statement made by both side counsel and concessions given by both parties, we pass the following order:

ORDER

(a) Petition is hereby disposed of as withdrawn.

(b) We however direct the respondent to submit the pension papers of the original petitioner - (i.e., Raghvendra K. Jahagirdar) for finalisation of the pension including the benefits of the Shetty Pay Commission and other retirement benefits.

(c) We further direct the respondents that they shall submit final papers of family pension of the petitioner no. 1(a), and if there are any arrears those shall be paid to the petitioner no. 1(a).

(d) The arrears of the pension and family pension and retirement benefits which will be calculated as stated above shall be payable to the petitioner no.1(a) only, and other petitioners have no objection for that.

(e) This exercise of submission of papers to the Accountant General should be done by the respondent within a period of four weeks and Accountant General shall thereafter take a final decision in the matter and disburse the amount within a period of eight weeks.

(f) Petition is accordingly disposed of.

Rule discharged.

(SMT. NISHITA MHATRE, J.) **(S.B.MHASE, J.)**

sachin/2007/nnm/..